

I certify that the attached is a true and
correct copy of HB 635
was filed of record on JAN 24 1979
and referred to the committee on:

Health Services

Edith H. Perry
Chief Clerk of the House

FILED JAN 24 1979

By Urbe

H.B. No. 635

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of lay midwifery and providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. DEFINITIONS. In this Act:

(1) "Lay midwife" means a person who practices lay midwifery.

(2) "Lay midwifery" means assisting childbirth for compensation.

(3) "Department" means the Texas Department of Health.

(4) "Board" means the Texas Board of Health.

(5) "Certified nurse midwife" means a person who is a registered nurse in accordance with the laws of this state and who has received certification from the American College of Nurse Midwives.

(6) "Natural childbirth trainer" means a person who counsels expectant mothers in the techniques of giving birth without artificial or mechanical assistance, but this definition does not include the act of assisting at childbirth.

(7) "Normal childbirth" means the delivery, at or close to term, of a pregnant woman whose physical examination reveals no abnormality or expected complications and who does not exhibit signs or symptoms of hemorrhage, toxemia, infection, or abnormal position and/or presentation.

1 SECTION 2. EXCEPTIONS. This Act does not apply to a
2 certified nurse midwife, a natural childbirth trainer, a licensed
3 physician, or a person other than a lay midwife who assists
4 childbirth in an emergency.

5 SECTION 3. LAY MIDWIFERY BOARD. The board shall appoint a
6 lay midwifery board every five years composed of:

7 (1) two lay midwives with three or more years of experience
8 in the practice of lay midwifery;

9 (2) two certified nurse midwives;

10 (3) an obstetrician who is a member of the American College
11 of Obstetricians;

12 (4) a licensed physician in general practice; and

13 (5) three persons who are not practicing or trained in a
14 health care profession to represent the public interest.

15 SECTION 4. TERMS. The members of the lay midwifery board
16 hold office for a term of one year.

17 SECTION 5. OFFICERS; MEETINGS; QUORUM. (a) The lay
18 midwifery board shall elect a chairman from one of the public
19 interest members and a vice-chairman from any of the other members.

20 (b) The lay midwifery board shall meet at least once and may
21 meet at other times at the call of the chairman or as provided by
22 its rules.

23 (c) Five members constitute a quorum.

24 SECTION 6. EXPENSES. Members may not receive compensation
25 for service on the lay midwifery board. Each member is entitled to
26 reimbursement for actual and necessary expenses incurred in
27 performing the duties of the lay midwifery board.

1 SECTION 7. EXECUTIVE SECRETARY; STAFF. (a) The lay
2 midwifery board shall appoint an executive secretary for the year
3 it convenes to perform administrative duties.

4 (b) The department shall pay the salaries of the executive
5 secretary and any additional staff it deems necessary. The
6 department shall provide office space and supplies for the
7 executive secretary and other staff.

8 SECTION 8. DUTIES OF THE LAY MIDWIFERY BOARD. (a) The lay
9 midwifery board shall:

10 (1) establish qualifications for lay midwifery training
11 course instructors;

12 (2) issue a lay midwifery training manual; and

13 (3) issue a final examination for a lay midwifery training
14 course.

15 (b) The instructor qualifications, training manual, and
16 final examination adopted by the lay midwifery board are subject to
17 the approval of the board.

18 SECTION 9. APPLICATION FOR EXAMINATION. An applicant for an
19 examination shall submit to the department an application fee of
20 \$15 and a completed application on a form prescribed by the lay
21 midwifery board.

22 SECTION 10. TRAINING COURSE. (a) The lay midwifery board
23 shall approve a training course for the practice of lay midwifery.
24 An approved course shall include:

25 (1) normal childbirth;

26 (2) symptoms of complications that occur in childbirth;

27 (3) anatomy of the human reproductive system;

(4) sterile techniques and procedures;
(5) delivery techniques to prevent vaginal lacerations;
(6) emergency treatment of vaginal lacerations occurring during childbirth;
(7) legal requirements and procedures for reporting births and deaths;
(8) silver nitrate treatment of newborn infants' eyes and tests for syphilis and mental retardation as required by law; and
(9) other information or procedures as determined by the department.

(b) The department may charge a fee of \$15 for a training course it conducts.

(c) The training course shall be taught in English and Spanish.

(d) The regional offices of the department shall make the training course available. The training course may be offered by a local health department or an accredited postsecondary educational institution or an adult education program. The training course offered by a local health department, educational institution, or adult education program shall comply with the lay midwifery board's requirements.

SECTION 11. EXAMINATION. (a) The final examination shall be approved by the lay midwifery board and administered by the department at its regional or local offices.

(b) The examination shall be in English and Spanish and may be offered in written or oral form.

SECTION 12. LETTER. The department shall grant a letter of

1 completion to a person who takes a lay midwifery training course
2 and passes the final examination.

3 SECTION 13. DUTIES OF LAY MIDWIVES. (a) Lay midwives shall
4 disclose in oral and written form to a prospective client the
5 limitations of the skills and practices of lay midwives.

6 (b) The department, with the advice of the lay midwifery
7 board, shall prescribe the form of the written disclosure required
8 by this section which shall include the information that a lay
9 midwife:

10 (1) may only assist in normal childbirth;

11 (2) has or does not have an arrangement with a local
12 physician for referring patients who have complications that occur
13 before or during childbirth;

14 (3) may not administer a prescription drug, perform a
15 Caesarean section, or perform an episiotomy; and

16 (4) has or has not passed a lay midwife training course.

17 (c) The written disclosure required by this section may not
18 exceed 500 words and shall be in English and Spanish.

19 SECTION 14. PROHIBITIONS. Lay midwives may not:

20 (1) administer a prescription drug to a client;

21 (2) use instruments such as forceps or surgical instruments
22 for any procedure other than cutting the umbilical cord or
23 providing emergency first aid during delivery;

24 (3) remove an adherent placenta except in a life-threatening
25 situation; or

26 (4) advance or retard labor or delivery by using medicines
27 or mechanical devices.

1 SECTION 15. PENALTIES. (a) A lay midwife commits an
2 offense if the lay midwife knowingly and intentionally commits any
3 of the acts described in Section 14 of this Act.

4 (b) An offense under Subsection (a) of this section is a
5 Class C misdemeanor.

6 (c) A lay midwife who knowingly and intentionally fails to
7 comply with the disclosure requirements of Section 13 of this Act
8 commits a Class C misdemeanor.

9 SECTION 16. FUNDS. All fees received by the department
10 under this Act shall be deposited in the state treasury to the
11 credit of the General Revenue Fund.

12 SECTION 17. EFFECTIVE DATE. This Act takes effect September
13 1, 1979.

14 SECTION 18. EMERGENCY. The importance of this legislation
15 and the crowded condition of the calendars in both houses create an
16 emergency and an imperative public necessity that the
17 constitutional rule requiring bills to be read on three several
18 days in each house be suspended, and this rule is hereby suspended.

HOUSE COMMITTEE REPORT

1st. Printing

By Uribe, et al.

H.B. No. 635

Substitute the following for H.B. No. 635:

By Uribe

C.S.H.B. No. 635

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of lay midwives; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. DEFINITIONS. In this Act:

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(2) "Lay midwifery" means assisting childbirth for compensation.

(3) "Department" means the Texas Department of Health.

(4) "Board" means the Texas Board of Health.

(5) "Certified nurse midwife" means a person who is a registered nurse in accordance with the laws of this state and who has received certification from the American College of Nurse Midwives.

(6) "Natural childbirth trainer" means a person who counsels expectant mothers in the techniques of giving birth without artificial or mechanical assistance, but this definition does not include the act of assisting at childbirth.

(7) "Normal childbirth" means the delivery, at or close to term, of a pregnant woman whose physical examination reveals no abnormality or expected complications and who does not exhibit signs or symptoms of hemorrhage, toxemia, infection, abnormal fetus position, or abnormal presentation.

SECTION 2. EXCEPTIONS. This Act does not apply to a

1 certified nurse midwife, a natural childbirth trainer, a physician,
2 a health care professional licensed by the state operating within
3 the scope of his or her license, or a person other than a lay
4 midwife who assists childbirth in an emergency.

5 SECTION 3. LAY MIDWIFERY BOARD. (a) The board shall
6 appoint a lay midwifery board composed of:

7 (1) two lay midwives with at least three years of experience
8 in the practice of lay midwifery;

9 (2) one certified nurse midwife;

10 (3) a person licensed to practice medicine who is certified
11 by the American College of Obstetricians and Gynecologists; and

12 (4) two persons who are not practicing or trained in a
13 health care profession and who represent the public interest.

14 (b) The lay midwifery board shall meet at least once during
15 the first year of its existence and at other times at the call of
16 its chairman or the board.

17 SECTION 4. TERMS. The members of the lay midwifery board
18 hold office for staggered terms of six years, with the terms of two
19 members expiring on January 31 of each odd-numbered year.

20 SECTION 5. OFFICERS; MEETINGS; QUORUM. (a) The lay
21 midwifery board shall elect a chairman from one of the public
22 interest members and a vice-chairman from any of the other members.

23 (b) Four members constitute a quorum.

24 SECTION 6. EXPENSES. Members may not receive compensation
25 for service on the lay midwifery board. Each member is entitled to
26 reimbursement for actual and necessary expenses incurred in
27 performing the duties of the lay midwifery board.

1 SECTION 7. EXECUTIVE SECRETARY; STAFF. (a) The department
2 shall hire an executive secretary, after consultation with the lay
3 midwifery board, to perform administrative duties, including
4 keeping the minutes of lay midwifery board meetings, maintaining
5 records about approved midwifery training courses, and maintaining
6 records of persons who have received a letter completion as
7 described in this Act.

8 (b) The department shall pay the salaries of the executive
9 secretary and any additional staff it determines necessary. The
10 department shall provide office space and supplies for the
11 executive secretary and other staff.

12 SECTION 8. DUTIES OF THE LAY MIDWIFERY BOARD. (a) The lay
13 midwifery board shall:

14 (1) establish qualifications for the lay midwifery training
15 course instructors;

16 (2) issue a lay midwifery training manual; and

17 (3) issue a final examination for a lay midwifery training
18 course.

19 (b) The instructor qualifications, training manual, and
20 final examination adopted by the lay midwifery board are subject to
21 the approval of the board.

22 SECTION 9. APPLICATION FOR EXAMINATION. An applicant for an
23 examination shall submit to the department an application fee of
24 \$25 and a completed application on a form prescribed by the lay
25 midwifery board.

26 SECTION 10. TRAINING COURSE. (a) The lay midwifery board
27 shall approve a training course manual for the practice of lay

1 midwifery. The department shall provide the training course manual
2 to any person who requests it. An approved course manual shall
3 include information about:

- 4 (1) normal childbirth;
- 5 (2) symptoms of complications that occur in childbirth;
- 6 (3) anatomy of the human reproduction system;
- 7 (4) sterile techniques and procedures;
- 8 (5) delivery techniques to prevent vaginal lacerations;
- 9 (6) emergency treatment of vaginal lacerations occurring
10 during childbirth;
- 11 (7) legal requirements and procedures for reporting births
12 and deaths;
- 13 (8) silver nitrate treatment of newborn infant's eyes and
14 tests for syphilis and mental retardation as required by law; and
15 (9) other information or procedures as determined by the
16 department.

17 (b) The department may charge a fee of \$50 for a training
18 course it conducts. The department may charge a fee of not more
19 than \$10 for each training course manual it distributes.

20 (c) The training course shall be taught in Spanish if that
21 is the only language a participant of the course understands. If
22 other course participants do not understand Spanish, the training
23 course shall be taught in English and Spanish.

24 (d) A regional office of the department shall make the
25 training course available on a temporary basis when the department
26 determines that the number of course offerings in a region is
27 insufficient to satisfy the demand for training by lay midwives in

1 a region. The training course may be offered by a local health
2 department or an accredited post-secondary educational institution
3 or an adult education program. The training course offered by a
4 local health department, educational institution, or adult
5 education program shall comply with the lay midwifery board's
6 requirements. Entities offering the training course shall submit
7 to the department the names of persons taking the course, the
8 course curriculum, and evidence that the instructor's
9 qualifications comply with the department's requirements.

10 SECTION 11. EXAMINATION. (a) The final examination shall
11 be administered by the department at its regional or local offices.

12 (b) The examination shall be administered in English and
13 Spanish and may be offered in written or oral form.

14 SECTION 12. LETTER. The department shall grant a letter of
15 completion to a person who takes a lay midwifery training course
16 and passes the final examination.

17 SECTION 13. IDENTIFICATION OF LAY MIDWIVES REQUIRED. In
18 December of each year, a person who practices lay midwifery shall
19 identify himself or herself on a form provided by the department
20 with the county clerk of the county where he or she resides and
21 with the county clerk of each county where he or she practices lay
22 midwifery.

23 SECTION 14. IDENTIFICATION PROCEDURES. (a) In order to
24 identify himself or herself as required by Section 13 of this Act,
25 a person shall appear in person before the county clerk of the
26 county in which he or she resides and before the county clerk of
27 each county in which he or she practices lay midwifery.

(b) As part of the identification required by Section 13 of this Act, the person identifying himself or herself as a lay midwife shall complete a form prescribed by the department that contains the following information:

- (1) name;
- (2) residence;
- (3) post office address;
- (4) date of birth;
- (5) place of birth; and
- (6) location of practice according to counties.

(c) The form may require other information the department determines necessary for the study of the practice of lay midwifery in the state.

(d) A person identifying himself or herself as a lay midwife shall present to the county clerk verification of his or her identity. The method of verification shall be recorded by the county clerk on a form prescribed by the department.

(e) The county clerk shall provide each lay midwife who identifies himself or herself a notice of a lay midwife's legal responsibilities under the laws and regulations of this state on a form prescribed by the department. Failure to receive the notice does not constitute a defense to prosecution for acts committed in violation of the laws and regulations of this state.

(f) On completion of the required identification form and verification of identity form, the county clerk shall retain for the county clerk's records a copy of each identification form or the portion of the form as designated by the department, and a copy

1 of the identity verification form. The county clerk shall send the
2 original identification form and original verification form to the
3 department. The county clerk may charge a reasonable fee for these
4 services under Subdivision 10, Article 3930, Revised Civil Statutes
5 of Texas, 1925, as amended.

6 SECTION 15. ROSTER. (a) The department shall maintain a
7 roster of all persons identified to practice lay midwifery.

8 (b) The roster shall contain the information specifically
9 enumerated in Section 14(b) of this Act and other information as
10 the department determines necessary to identify with accuracy each
11 lay midwife who is identified and the county or counties in which
12 he or she resides or practices. This information shall be a public
13 record as defined in Chapter 424, Acts of the 63rd Legislature,
14 Regular Session, 1973, as amended (Article 6252-17a, Vernon's Texas
15 Civil Statutes).

16 (c) The roster may contain other information the department
17 determines necessary and appropriate to ascertain the nature and
18 extent of the practice of lay midwifery within this state. The
19 information may only be used by the department to achieve the
20 intent of this Act and may not otherwise be made public so as to
21 disclose the identity of any person to whom such information
22 relates. Such information shall not be available to public
23 inspection under Chapter 424, Acts of the 63rd Legislature, Regular
24 Session, 1973, as amended (Article 6252-17a, Vernon's Texas Civil
25 Statutes).

26 SECTION 16. DUTIES OF LAY MIDWIVES. (a) Lay midwives shall
27 disclose in oral and written form to a prospective client the

1 limitations of the skills and practices of lay midwives.

2 (b) The department, with the advice of the lay midwifery
3 board, shall prescribe the form of the written disclosure required
4 by this section, which shall include the information that a lay
5 midwife:

6 (1) may assist only in normal childbirth;

7 (2) has or does not have an arrangement with a local
8 physician for referring patients who have complications that occur
9 before or during childbirth;

10 (3) may not administer a prescription drug, perform a
11 Caesarean section, or perform an episiotomy; and

12 (4) has or has not passed a lay midwife training course that
13 complies with the board's requirements.

14 (c) The written disclosure required by this section may not
15 exceed 500 words and shall be in English and Spanish.

16 SECTION 17. PROHIBITIONS. Lay midwives may not:

17 (1) administer a prescription drug to a client;

18 (2) use instruments such as forceps or surgical instruments
19 for any procedure other than cutting the umbilical cord or
20 providing emergency first aid during delivery;

21 (3) remove an adherent placenta;

22 (4) advance or retard labor or delivery by using medicines
23 or mechanical devices; or

24 (5) use in connection with his or her name a title,
25 abbreviation, or any designation tending to imply that he or she is
26 a "registered" lay midwife as opposed to one who has identified
27 himself or herself in compliance with this Act.

1 SECTION 18. PENALTIES. (a) A lay midwife commits an
2 offense if the lay midwife knowingly and intentionally commits any
3 of the acts described in Section 17 of this Act.

4 (b) An offense under Subsection (a) of this section is a
5 Class C misdemeanor.

6 (c) A lay midwife who knowingly and intentionally fails to
7 comply with the disclosure requirement of Section 16 of this Act
8 commits a Class C misdemeanor.

9 (d) A lay midwife who knowingly and intentionally fails to
10 comply with the identification requirement in Section 13 of this
11 Act commits a Class C misdemeanor.

12 SECTION 19. FUNDS. All fees received by the department
13 under this Act shall be deposited in the state treasury to the
14 credit of the General Revenue Fund and shall be reappropriated to
15 the Texas Department of Health for the purpose of defraying the
16 costs of this Act.

17 SECTION 20. REPEALER. Section 16, Chapter 41, Acts of the
18 40th Legislature, 1st Called Session, 1927, as amended (Rule 49a,
19 Article 4477, Vernon's Civil Statutes), is repealed.

20 SECTION 21. INITIAL APPOINTMENTS. In making the initial
21 appointments to the lay midwifery board, the Texas Board of Health
22 shall designate one lay midwife and one public interest
23 representative for terms expiring January 1, 1981, the certified
24 nurse midwife and one public interest representative for terms
25 expiring January 1, 1983, and one lay midwife and the obstetrician
26 for terms expiring January 1, 1985.

27 SECTION 22. EFFECTIVE DATE. This Act takes effect September

1 1, 1979, except that Sections 16(a), 17, and 18 take effect on
2 September 1, 1980.

3 SECTION 23. EMERGENCY. The importance of this legislation
4 and the crowded condition of the calendars in both houses creates
5 an emergency and an imperative public necessity that the
6 constitutional rule requiring bills to be read on three several
7 days in each house be suspended, and this rule is hereby suspended.

COMMITTEE REPORT

The Honorable Bill Clayton
Speaker of the House of Representatives

April 11, 1979
(date)

Sir:

We, your COMMITTEE ON HEALTH SERVICES, to whom was referred House Bill 635,
have had the same under consideration and beg to report back with the recommendation that it (measure)

- () do pass, without amendment.
- () do pass, with amendment(s).
- (X) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested on January 29, 1979, and is attached as part of this report.
(date)

~~XXXXXXXXXXXXXXXXXXXX~~

~~THE COMMITTEE RECOMMENDS THAT THIS MEASURE BE PLACED ON THE X MOON X CALENDAR~~

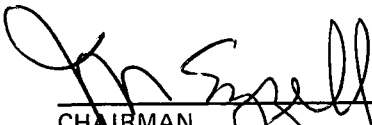
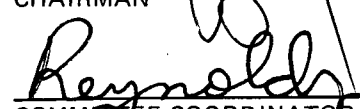
This measure (X) proposes new law.
() amends existing law.

House Sponsor of Senate Measure _____

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Ezell, Ch.			X	
Untermeyer, V.C.	X			
Whitehead, V.C.A.	X			
Barrientos	X			
Gonzales	X			
Grubbs	X			
Simpson	X			
Uribe	X			
Webber	X			

Total:
8 aye
0 nay
1 present, not voting
0 absent


CHAIRMAN

COMMITTEE COORDINATOR

BILL ANALYSIS (Substitute)

BACKGROUND INFORMATION

THERE IS NO COMPREHENSIVE STATUTORY SCHEME IN THIS STATE RELATING TO THE PRACTICE OF MIDWIFERY. MIDWIVES DELIVER A LARGE NUMBER OF BIRTHS IN THIS STATE.

PURPOSE

THIS BILL WOULD CREATE A LAY MIDWIFERY BOARD (LMB). IT ESTABLISHES THE DUTIES OF THE LMB AND AUTHORIZES THE ESTABLISHMENT OF LAY MIDWIFERY TRAINING COURSES. IT SETS OUT CERTAIN DUTIES AND PROHIBITIONS CONCERNING THE PRACTICE OF LAY MIDWIFERY. IT REQUIRES THAT LAY MIDWIVES IDENTIFY THEMSELVES WITH COUNTY CLERKS. THE DEPARTMENT OF HEALTH SHALL MAINTAIN A ROSTER OF LAY MIDWIVES.

SECTION BY SECTION ANALYSIS

- SECTION 1: DEFINES " LAY MIDWIFE", "LAY MIDWIFERY", "DEPARTMENT", "BOARD", "CERTIFIED NURSE MIDWIFE", "NATURAL CHILDBIRTH TRAINER" AND "NORMAL CHILDBIRTH".
- SECTION 2: THE ACT DOES NOT APPLY TO CERTIFIED NURSE MIDWIVES, NATURAL CHILDBIRTH TRAINERS, PHYSICIANS, HEALTH CARE PROFESSIONALS OPERATING WITHIN THE SCOPE OF THEIR LICENSES AND ANY PERSON OTHER THAN A LAY MIDWIFE WHO ASSISTS CHILDBIRTH IN AN EMERGENCY.
- SECTION 3: THE LMB SHALL BE APPOINTED BY THE BOARD OF HEALTH AND COMPOSED OF TWO LAY MIDWIVES, ONE CERTIFIED NURSE MIDWIFE, AN OBSTETRICIAN AND TWO PERSONS TO REPRESENT THE PUBLIC INTEREST. THE BOARD SHALL MEET AT LEAST ONCE ITS FIRST YEAR AND THEREAFTER AT THE CALL OF THE CHAIR OR THE BOARD.
- SECTION 4: MEMBERS OF THE LMB HOLD OFFICE FOR STAGGERED TERMS OF 2 YEARS.
- SECTION 5: THE CHAIRMAN SHALL BE ONE OF THE PUBLIC INTEREST MEMBERS. FOUR MEMBERS CONSTITUTE A QUORUM.
- SECTION 6: MEMBERS OF THE LMB SHALL NOT BE COMPENSATED, EXCEPT FOR REIMBURSEMENT FOR ACTUAL AND NECESSARY EXPENSES.
- SECTION 7: AFTER CONSULTATION WITH THE LMB THE DEPARTMENT SHALL HIRE AN EXECUTIVE SECRETARY TO PERFORM ADMINISTRATIVE DUTIES. THE DEPARTMENT SHALL PAY THE SALARY OF THE EXECUTIVE SECRETARY AND OTHER STAFF AND PROVIDE OFFICE SPACE AND SUPPLIES.
- SECTION 8: SUBJECT TO APPROVAL BY THE BOARD, THE LMB SHALL (1) ESTABLISH QUALIFICATIONS FOR LAY MIDWIFERY TRAINING INSTRUCTORS, (2) ISSUE A LAY MIDWIFERY TRAINING MANUAL AND (3) ISSUE A FINAL EXAMINATION FOR A LAY MIDWIFERY TRAINING COURSE.
- SECTION 9: AN APPLICANT FOR EXAMINATION SHALL SUBMIT A FEE OF \$25.00 AND COMPLETE A FORM PRESCRIBED BY THE LMB.
- SECTION 10: ESTABLISHES THE SUBJECTS TO BE INCLUDED IN THE TRAINING COURSE MANUAL. THE DEPARTMENT MAY CHARGE A \$50.00 FEE FOR A TRAINING COURSE AND \$10.00 FOR A TRAINING MANUAL. THE COURSE IS TO BE TAUGHT IN ENGLISH AND SPANISH. REGIONAL OFFICES OF THE DEPARTMENT SHALL MAKE THE COURSES AVAILABLE ON A TEMPORARY BASIS AS NEED REQUIRES. THE COURSES MAY BE OFFERED BY LOCAL HEALTH DEPARTMENTS, POST-SECONDARY EDUCATIONAL INSTITUTIONS AND ADULT EDUCATIONS PROGRAMS. THESE ENTITIES SHALL SUBMIT THE NAMES OF THE PERSONS TAKING THE COURSE, THE COURSE CURRICULUM AND EVIDENCE OF THE INSTRUCTOR'S QUALIFICATIONS.
- SECTION 11: A FINAL EXAMINATION SHALL BE ADMINISTERED BY THE DEPARTMENT AT ITS REGIONAL OR LOCAL OFFICES. IT MAY BE WRITTEN OR ORAL AND SHALL BE IN ENGLISH AND SPANISH.

SECTION 12: THE DEPARTMENT SHALL GRANT A LETTER OF COMPLETION TO PERSONS WHO TAKE A COURSE AND PASS THE FINAL EXAMINATION.

SECTION 13: IN DECEMBER OF EACH YEAR A LAY MIDWIFE IS REQUIRED TO IDENTIFY HIMSELF OR HERSELF WITH THE COUNTY CLERK OF THE COUNTY OF HIS OR HER RESIDENCE AND OF EACH COUNTY WHERE HE OR SHE PRACTICES LAY MIDWIFERY.

SECTION 14: THE IDENTIFICATION MUST BE DONE IN PERSON. THE PERSON SHALL PROVIDE HIS OR HER NAME, RESIDENCE, POST OFFICE ADDRESS, DATE OF BIRTH, PLACE OF BIRTH, LOCATION OF PRACTICE AND OTHER INFORMATION THE DEPARTMENT DETERMINES NECESSARY FOR THE STUDY OF THE PRACTICE OF LAY MIDWIFERY. THE PERSON SHALL PROVIDE VERIFICATION OF IDENTITY. THE COUNTY CLERK SHALL PROVIDE EACH LAY MIDWIFE WITH A NOTICE OF LEGAL RESPONSIBILITIES. THE COUNTY CLERK SHALL RETAIN A COPY OF THE IDENTIFICATION FORM AND VERIFICATION FORM AND FORWARD THE ORIGINALS TO THE DEPARTMENT. A REASONABLE FEE MAY BE CHARGED BY COUNTY CLERKS.

SECTION 15: THE DEPARTMENT SHALL MAINTAIN A ROSTER OF LAY MIDWIVES. CERTAIN INFORMATION SHALL BE PUBLIC RECORD. THE ROSTER MAY CONTAIN OTHER INFORMATION THAT IS NOT PUBLIC RECORD.

SECTION 16: LAY MIDWIVES MUST MAKE THE DISCLOSURES STATED IN THE BILL TO CLIENTS. THE DISCLOSURES RELATE TO THE LIMITATIONS ON THE SKILLS AND PRACTICES OF LAY MIDWIVES. THE DISCLOSURES ARE TO BE IN ENGLISH AND SPANISH AND IN THE FORM PRESCRIBED BY THE DEPARTMENT.

SECTION 17: LAY MIDWIVES MAY NOT (1) ADMINISTER PRESCRIPTION DRUGS, (2) USE INSTRUMENTS FOR ANY PROCEDURE OTHER THAN CUTTING THE UMBILICAL CORD OR PROVIDING EMERGENCY FIRST AID DURING DELIVERY, (3) REMOVE AN ADHERENT PLACENTA, (4) ADVANCE OR RETARD LABOR OR DELIVERY BY USING MEDICINES OR MECHANICAL DEVICES OR (4) MAKE A REPRESENTATION THAT HE OR SHE IS A "REGISTERED" LAY MIDWIFE AS OPPOSED TO ONE IDENTIFIED UNDER THE ACT.

SECTION 18: IT IS A CLASS C MISDEMEANOR TO FAIL TO COMPLY WITH DISCLOSURE REQUIREMENTS OF SECTION 16, TO PERFORM ANY OF THE ACTS STATED IN SECTION 17 OR TO FAIL TO COMPLY WITH THE IDENTIFICATION REQUIREMENTS OF SECTION 13.

SECTION 19: ALL FEES RECEIVED BY DEPARTMENT SHALL BE DEPOSITED IN THE GENERAL REVENUE FUND AND BE REAPPROPRIATED TO THE DEPARTMENT TO DEFRAY THE COSTS OF THE ACT.

SECTION 20: REPEALS RULE 49a, ART. 4477, V.T.C.S. WHICH REQUIRES REGISTRATION OF PHYSICIANS, MIDWIVES AND UNDERTAKERS WITH LOCAL REGISTRARS.

SECTION 21: PROVIDES THE MANNER IN WHICH THE BOARD OF HEALTH SHALL MAKE THE INITIAL APPOINTMENTS TO THE LMB.

SECTION 22: EFFECTIVE DATE IS SEPTEMBER 1, 1979, EXCEPT SECTIONS 16(a), 17 and 18 TAKE EFFECT SEPTEMBER 1, 1980.

SECTION 23: EMERGENCY CLAUSE.

RULEMAKING AUTHORITY

THERE MAY BE SOME IMPLIED RULEMAKING AUTHORITY DELEGATED TO THE DEPARTMENT OF HEALTH AND THE LMB. SECTION 8 AUTHORIZES THE LMB TO ESTABLISH QUALIFICATIONS FOR TRAINING COURSE INSTRUCTORS. THIS COULD PRESUMABLY BE DONE BY THE RULEMAKING PROCESS IF THE BOARD DESIRED TO HAVE PUBLIC INPUT INTO THE DECISION MAKING PROCESS. SECTIONS 14 AND 15 ALLOW THE DEPARTMENT TO OBTAIN AND MAINTAIN ADDITIONAL INFORMATION AS IT MAY REQUIRE TO STUDY THE PRACTICE OF LAY MIDWIFERY AND TO ACHIEVE THE INTENT OF THE ACT. THIS ADDITIONAL INFORMATION COULD BE REQUIRED BY RULE. SECTIONS 9, 13 AND 14 AUTHORIZE THE DEPARTMENT AND THE LMB TO PRESCRIBE CERTAIN FORMS. THIS COULD BE DONE BY THE RULEMAKING PROCESS. THE BOARD OF HEALTH PRESENTLY IS AUTHORIZED TO ADOPT RULES AND REGULATIONS FOR ITS OWN PROCEDURES AND FOR THE CONDUCT AND PERFORMANCE OF EVERY DUTY IMPOSED BY LAW ON THE BOARD, THE DEPARTMENT AND THE COMMISSIONER OF HEALTH. ART. 4418, V.T.C.S. THERE ARE NO PROCEDURAL PROVISIONS IN THIS BILL THAT DIFFER FROM THE RULEMAKING REQUIREMENTS OF THE ADMINISTRATIVE PROCEDURE AND TEXAS REGISTER ACT. IT WAS DETERMINED THAT A REASONABLE ESTIMATE OF THE COST AND ECONOMIC IMPACTS OF THE PROPOSED RULEMAKING COULD NOT BE MADE.

COMPARISON OF SUBSTITUTE TO ORIGINAL BILL

THE SALIENT FEATURES OF THE SUBSTITUTE AS COMPARED TO THE ORIGINAL BILL ARE AS FOLLOWS:

- (1) ADDS TO THE EXCEPTIONS A HEALTH CARE PROFESSIONAL OPERATING WITHIN THE SCOPE OF HIS OR HER LICENSE.
- (2) CHANGES THE COMPOSITION OF THE LMB BY STRIKING ONE CERTIFIED NURSE MIDWIFE, STRIKING THE PHYSICIAN AND STRIKING ONE OF THE PUBLIC INTEREST MEMBERS.
- (3) PROVIDES FOR STAGGERED TWO YEAR TERMS INSTEAD OF ONE YEAR TERMS FOR MEMBERS OF THE LMB AND PROVIDES THE MANNER OF APPOINTMENT BY THE BOARD.
- (4) SPECIFIES SOME OF THE DUTIES OF OF THE EXECUTIVE SECRETARY OF THE LMB.
- (5) RAISES THE COURSE APPLICATION FEE FROM \$15.00 TO \$25.00.
- (6) PROVIDES THE LMB SHALL APPROVE A TRAINING COURSE MANUAL INSTEAD OF THE TRAINING COURSE.
- (7) RAISES THE TRAINING COURSE FEE FROM \$15.00 TO \$50.00 AND ALLOWS A \$10.00 CHARGE FOR A TRAINING COURSE MANUAL.
- (8) ALLOWS THE REGIONAL OFFICE OF THE DEPARTMENT TO PROVIDE TRAINING COURSES ON TEMPORARY BASIS AS NEED REQUIRES INSTEAD OF AT ALL TIMES.
- (9) REQUIRES ENTITIES OFFERING TRAINING COURSES TO SUBMIT A LIST OF TRAINEES, THE COURSE CURRICULUM, AND EVIDENCE OF INSTRUCTOR QUALIFICATIONS.
- (10) REQUIRES INDENTIFICATION OF LAY MIDWIVES , THE MAINTENANCE OF A LAY MIDWIFE ROSTER BY THE DEPARTMENT AND PROVIDES PENALTIES FOR FAILURE TO IDENTIFY.
- (11) PROHIBITS A LAY MIDWIFE FROM REMOVING AN ADHERENT PLACENTA, INSTEAD OF PROHIBITING SUCH ACT EXCEPT IN EMERGENCY SITUATIONS.
- (12) PROHIBITS A LAY MIDWIFE FROM REPRESENTING THAT HE OR SHE IS "REGISTERED".
- (13) PROVIDES FEES COLLECTED SHALL BE USED TO DEFRAY THE COSTS OF THE ACT.
- (14) REPEALS RULE 49a, ART. 4477, V.T.C.S.
- (15) PROVIDES THAT THE EFFECTIVE DATE OF THE DISCLOSURE, PROHIBITION AND PENALTY PROVISIONS OF THE ACT IS SEPTEMBER 1, 1980.

SUMMARY OF COMMITTEE ACTION

Public notice was posted in accordance with Rule V, Section 14, Rules of Procedure of the House of Representatives and a public hearing was held on April 4, 1979.

The following individuals in the capacity stated testified in favor of the passage of H. B. 635:

- 1.) Representative Hector Uribe, the bill's sponsor, who testified that a vast number of children are born outside of a hospital. There were no statutes or body of law which addressed itself to the regulation of lay midwifery. My main concern is for the public.
- 2.) Arthur Munoz, Investigator, Department of Human Resources, who testified that I'm here to give examples of cases involving midwives.
- 3.) C. E. Gibbs, M.D., Physician/teacher, who testified that using only birth certificate data we find somewhere around 9000 non-doctor births were recorded in each 1977-76. Lay midwives have no professional medical training or education. As a physician I believe lay midwifery is a very inferior method for the conduct of human birth. Until there is an alternative for poor people, I think we have to deal with the problem as it exists. I am in support of the bill.
- 4.) Joceline K. Alexander, Certified Nurse Midwife, homemaker, who testified that it will provide needed standardization of training and practice in the field.
- 5.) Beatrice Von Ohlen, R.N., EMS Coordinator and Lay Midwifery Education, Department of Health, City of Brownsville, who testified that in Brownsville, lay midwives have regulation, education and observation. These people do want education.
- 6.) Lois del Castillo, R.N. T.N.A. District #4, who testified that this bill would establish a lay midwifery Board and a standard training course....would allow the Texas Department of Health to maintain a central registry through the county clerk....would require midwives to disclose limit of practice to clients.... would prohibit lay midwives from administering prescription drugs.
- 7.) Katherine E. Stanwick, lay midwife, Bethlehem Childbirth Center, who testified that we identify problems all the time and there's no place to send them. There have been no training opportunities available in the state of Texas.
- 8.) Raymond T. Moore, Physician, Texas Department of Health, who testified that I have with me and give to you the 1977 data births by county and attendance by place of occurrence of midwives.
- 9.) Niki Richardson, Midwife, Austin Lay Midwives Association, who testified that I felt it important to give committee members an idea of what is new lay-midwifery.

By: Uribe

The following individuals in the capacity stated testified against the passage of H. B. 635:

- 1.) Ace Pickens, attorney, Texas Medical Association, who testified that the TMA has taken the position that lay midwifery is not the highest quality of delivery of maternal services.

On April 4, 1979, H. B. 635 as substituted was referred to a sub-committee and the following were appointed: Rep. Barrientos, Chair, Rep. Uribe and Rep. Untermeyer.

On April 9, 1979, the Sub-committee met in a formal meeting and voted to report H. B. 635 as substituted to the full committee with the recommendation that it do pass by a record vote of three (3) ayes, zero (0) nays, zero (0) present not voting and zero (0) absent.

On April 11, 1979, the full committee voted to report H. B. 635 as substituted to the House Floor with the recommendation that it do pass as substituted by a record vote of eight (8) ayes, zero (0) nays, one (1) present not voting and zero (0) absent.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

February 19, 1979

Honorable Mike Ezzell, Chairman
Committee on Health Services
House of Representatives
Austin, Texas

In Re: House Bill No. 635
By: Uribe

Sir:

In response to your request pursuant to House Rule V, Section 28, this office finds the fiscal implications of House Bill No. 635 (relating to the regulation of lay midwifery and providing penalties) to be as follows:

The bill would make no appropriation but would constitute prior legislative authorization for an appropriative request.

The bill, should it be enacted, would charge the Department of Health with the responsibility of establishing a Lay Midwifery Board to be composed of nine members. The Lay Midwifery Board, with the approval of the Board of Health, would specify requirements for the training of course instructors, make available training manuals and issue a final examination for the midwifery training course.

The bill, should it be enacted, would authorize the Department of Health to collect a \$15 application fee to be collected from each applicant. This amount would be deposited in the General Revenue Fund. It is not possible at this time to estimate the amount of fee revenue that would be collected, however, approximately 43,000 applicants per year would be required to collect sufficient revenue to pay for the administrative cost to the Department of Health.

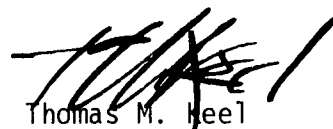
The bill would authorize the regional offices of the Department of Health to make available training courses for applicants. Training courses could also be offered by local health departments and accredited post secondary educational institutions. A fee of \$15 may be charged for the training course.

Units of local government such as school districts or junior colleges may experience costs and revenue if they choose to offer the course of instruction.

The probable administrative cost of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

<u>Fiscal Year</u>	<u>Probable Cost Out Of The General Revenue Fund</u>	<u>Change In Number Of State Employees From FY 1979</u>
1980	\$704,739	+ 28
1981	634,174	+ 28
1982	634,174	+ 28
1983	634,174	+ 28
1984	634,174	+ 28

Similar annual costs would continue as long as the provisions of the bill are in effect.


Thomas M. Keel
Director

Source: Department of Health; LBB Staff

Rd. 2-19-79

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

April 10, 1979

Honorable Mike Ezzell, Chairman
Committee on Health Services
House of Representatives
Austin, Texas

In Re: Committee Substitute for
House Bill No. 635

Sir:

In response to your request pursuant to House Rule V, Section 28, this office finds the fiscal implications of the Committee Substitute for House Bill No. 635 (relating to the regulation of lay midwives and providing penalties) to be as follows:

The bill would make no appropriation but would constitute prior legislative authorization for an appropriative request.

The bill, should it be enacted, would charge the Department of Health with the responsibility of establishing a Lay Midwifery Board to be composed of six members. The Lay Midwifery Board, with the approval of the Board of Health, would specify requirements for the training course instructors, make available training manuals and issue a final examination for the midwifery training course.

The bill, should it be enacted, would authorize the Department of Health to collect a \$15 application fee from each applicant. This amount would be deposited in the General Revenue Fund.

The bill would authorize the regional offices of the Department of Health to make available training courses for applicants. Training courses could also be offered by local health departments and accredited post secondary educational institutions. A fee of \$15 may be charged for the training course.


Units of local government such as school districts or junior colleges may experience costs and revenue if they choose to offer the course of instruction.

The probable fiscal implication of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

<u>Fiscal Year</u>	<u>Probable Cost Out Of The General Revenue Fund</u>	<u>Probable Revenue Gain To The General Revenue Fund</u>	<u>Change In Number Of State Employees From FY 1979</u>
1980	\$ 322,235	\$ 6,000	+ 12
1981	322,390	6,000	+ 12
1982	322,390	6,000	+ 12
1983	322,390	6,000	+ 12
1984	322,390	6,000	+ 12

Similar annual fiscal implications would continue as long as the provisions of the bill are in effect.

No fiscal implication to units of local government attributable to the bill, should it be enacted, is anticipated.


Thomas M. Keel
Director

Source: Department of Health; LBB Staff

Red. 4-10-79

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

April 11, 1979

Honorable Mike Ezzell, Chairman
Committee on Health Services
House of Representatives
Austin, Texas

In Re: Committee Substitute for
House Bill No. 635

Sir:

In response to your request pursuant to House Rule V, Section 28, this office finds the fiscal implications of the Committee Substitute for House Bill No. 635 (relating to the regulation of lay midwives and providing penalties) to be as follows:

The bill would make no appropriation but would constitute prior legislative authorization for an appropriative request.

The bill, should it be enacted, would charge the Department of Health with the responsibility of establishing a Lay Midwifery Board to be composed of six members. The Lay Midwifery Board, with the approval of the Board of Health, would specify requirements for the training course instructors, make available training manuals and issue a final examination for the midwifery training course.

The bill, should it be enacted, would authorize the Department of Health to collect an application fee of \$25.00 from each applicant. The revenue from this, and other fees authorized by the bill, would be deposited in the General Revenue Fund.


The bill would authorize the regional offices of the Department of Health to make available training courses for applicants. Training courses could also be offered by local health departments and accredited post secondary educational institutions. A fee of \$50.00 may be charged for the training course and \$10.00 for each training course manual.

Units of local government such as school districts or junior colleges may experience costs and revenue if they choose to offer the course of instruction.

The probable fiscal implication of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

Fiscal Year	Probable Cost Out of the General Revenue Fund	Probable Revenue Gain to the General Revenue Fund	Change in Number of State Employees from FY 1979
1980	\$ 322,235	\$ 17,000	+ 12
1981	322,390	17,000	+ 12
1982	322,390	17,000	+ 12
1983	322,390	17,000	+ 12
1984	322,390	17,000	+ 12

Similar annual fiscal implications would continue as long as the provisions of the bill are in effect.


Thomas M. Keel
Director

Source: Department of Health; LBB Staff: TK, HS, GR, LV

ADOPTED

MAY 4 1979

Betty Murray
Chief Clerk
House of Representatives

By Uribe

H.B. No. 635

Substitute the following for H.B. No. 635:

By Uribe

C.S.H.B. No. 635

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of lay midwives; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. DEFINITIONS. In this Act:

(1) "Lay midwife" means a person who practices lay midwifery.

(2) "Lay midwifery" means assisting childbirth for compensation.

(3) "Department" means the Texas Department of Health.

(4) "Board" means the Texas Board of Health.

(5) "Certified nurse midwife" means a person who is a registered nurse in accordance with the laws of this state and who has received certification from the American College of Nurse Midwives.

(6) "Natural childbirth trainer" means a person who counsels expectant mothers in the techniques of giving birth without artificial or mechanical assistance, but this definition does not include the act of assisting at childbirth.

(7) "Normal childbirth" means the delivery, at or close to term, of a pregnant woman whose physical examination reveals no abnormality or expected complications and who does not exhibit signs or symptoms of hemorrhage, toxemia, infection, abnormal fetus position, or abnormal presentation.

SECTION 2. EXCEPTIONS. This Act does not apply to a

1 certified nurse midwife, a natural childbirth trainer, a physician,
2 a health care professional licensed by the state operating within
3 the scope of his or her license, or a person other than a lay midwife
4 who assists childbirth in an emergency.

5 SECTION 3. LAY MIDWIFERY BOARD. (a) The board shall
6 appoint a lay midwifery board composed of:

7 (1) two lay midwives with at least three years of experience
8 in the practice of lay midwifery;

9 (2) one certified nurse midwife;

10 (3) a person licensed to practice medicine who is certified
11 by the American College of Obstetricians and Gynecologists; and

12 (4) two persons who are not practicing or trained in a health
13 care profession and who represent the public interest.

14 (b) The lay midwifery board shall meet at least once during
15 the first year of its existence and at other times at the call of
16 its chairman or the board.

17 SECTION 4. TERMS. The members of the lay midwifery board
18 hold office for staggered terms of six years, with the terms of two
19 members expiring on January 31 of each odd-numbered year.

20 SECTION 5. OFFICERS; MEETINGS; QUORUM. (a) The lay
21 midwifery board shall elect a chairman from one of the public
22 interest members and a vice-chairman from any of the other members.

23 (b) Four members constitute a quorum.

24 SECTION 6. EXPENSES. Members may not receive compensation
25 for service on the lay midwifery board. Each member is entitled to
26 reimbursement for actual and necessary expenses incurred in
27 performing the duties of the lay midwifery board.

1 SECTION 7. EXECUTIVE SECRETARY; STAFF. (a) The department
2 shall hire an executive secretary, after consultation with the
3 lay midwifery board, to perform administrative duties, including
4 keeping the minutes of lay midwifery board meetings, maintaining
5 records about approved midwifery training courses, and maintaining
6 records of persons who have received a letter completion as
7 described in this Act.

8 (b) The department shall pay the salaries of the executive
9 secretary and any additional staff it determines necessary. The
10 department shall provide office space and supplies for the executive
11 secretary and other staff.

12 SECTION 8. DUTIES OF THE LAY MIDWIFERY BOARD. (a) The lay
13 midwifery board shall:

14 (1) establish qualifications for the lay midwifery training
15 course instructors;

16 (2) issue a lay midwifery training manual; and

17 (3) issue a final examination for a lay midwifery training
18 course.

19 (b) The instructor qualifications, training manual, and
20 final examination adopted by the lay midwifery board are subject to
21 the approval of the board.

22 SECTION 9. APPLICATION FOR EXAMINATION. An applicant for an
23 examination shall submit to the department an application fee of
24 \$25 and a completed application on a form prescribed by the lay
25 midwifery board.

26 SECTION 10. TRAINING COURSE. (a) The lay midwifery board
27 shall approve a training course manual for the practice of lay

1 midwifery. The department shall provide the training course manual
2 to any person who requests it. An approved course manual shall
3 include information about:

- 4 (1) normal childbirth;
- 5 (2) symptoms of complications that occur in childbirth;
- 6 (3) anatomy of the human reproduction system;
- 7 (4) sterile techniques and procedures;
- 8 (5) delivery techniques to prevent vaginal lacerations;
- 9 (6) emergency treatment of vaginal lacerations occurring
10 during childbirth;
- 11 (7) legal requirements and procedures for reporting births
12 and deaths;
- 13 (8) silver nitrate treatment of newborn infant's eyes and
14 tests for syphilis and mental retardation as required by law; and
15 (9) other information or procedures as determined by the
16 department.

17 (b) The department may charge a fee of \$50 for a training
18 course it conducts. The department may charge a fee of not more
19 than \$10 for each training course manual it distributes.

20 (c) The training course shall be taught in Spanish if that
21 is the only language a participant of the course understands. If
22 other course participants do not understand Spanish, the training
23 course shall be taught in English and Spanish.

24 (d) A regional office of the department shall make the
25 training course available on a temporary basis when the department
26 determines that the number of course offerings in a region is
27 insufficient to satisfy the demand for training by lay midwives in

1 a region. The training course may be offered by a local health
2 department or an accredited post³secondary educational institution
3 or an adult education program. The training course offered by a
4 local health department, educational institution, or adult
5 education program shall comply with the lay midwifery board's
6 requirements. Entities offering the training course shall submit
7 to the department the names of persons taking the course, the
8 course curriculum, and evidence that the instructor's
9 qualifications comply with the department's requirements.

10 SECTION 11. EXAMINATION. (a) The final examination shall
11 be administered by the department at its regional or
12 local offices.

13 (b) The examination shall be administered in English and
14 Spanish and may be offered in written or oral form.

15 SECTION 12. LETTER. The department shall grant a letter of
16 completion to a person who takes a lay midwifery training course
17 and passes the final examination.

18
19 SECTION 13. IDENTIFICATION OF LAY MIDWIVES REQUIRED. In
20 December of each year, a person who practices lay midwifery shall
21 identify himself or herself on a form provided by the department
22 with the county clerk of the county where he or she resides and
23 with the county clerk of each county where he or she practices lay
24 midwifery.

25 SECTION 14. IDENTIFICATION PROCEDURES. (a) In order to
26 identify himself or herself as required by Section 13 of this Act,
27 a person shall appear in person before the county clerk of the

1 county in which he or she resides and before the county clerk of
2 each county in which he or she practices lay midwifery.

3 (b) As part of the identification required by Section 13 of
4 this Act, the person identifying himself or herself as a lay midwife
5 shall complete a form prescribed by the department that contains the
6 following information:

7 (1) name;

8 (2) residence;

9 (3) post office address;

10 (4) date of birth;

11 (5) place of birth; and

12 (6) location of practice according to counties.

13 (c) The form may require other information the department
14 determines necessary for the study of the practice of lay midwifery
15 in the state.

16 (d) A person identifying himself or herself as a lay midwife
17 shall present to the county clerk verification of his or her identity.
18 The method of verification shall be recorded by the county clerk
19 on a form prescribed by the department.

20 (e) The county clerk shall provide each lay midwife who
21 identifies himself or herself a notice of a lay midwife's legal
22 responsibilities under the laws and regulations of this state on
23 a form prescribed by the department. Failure to receive the notice
24 does not constitute a defense to prosecution for acts committed in
25 violation of the laws and regulations of this state.

26 (f) On completion of the required identification form and
27

1 verification of identity form, the county clerk shall retain for
2 the county clerk's records a copy of each identification form or
3 the portion of the form as designated by the department, and a copy
4 of the identity verification form. The county clerk shall send the
5 original identification form and original verification form to the
6 department. The county clerk may charge a reasonable fee for these
7 services under Subdivision 10, Article 3930, Revised Civil Statutes
8 of Texas, 1925, as amended.

9 SECTION 15. ROSTER. (a) The department shall maintain a roster
10 of all persons identified to practice lay midwifery.

11 (b) The roster shall contain the information specifically
12 enumerated in Section 14(b) of this Act and other information as
13 the department determines necessary to identify with accuracy each
14 lay midwife who is identified and the county or counties in which
15 he or she resides or practices. This information shall be a public
16 record as defined in Chapter 424, Acts of the 63rd Legislature,
17 Regular Session, 1973, as amended (Article 6252-17a, Vernon's Texas
18 Civil Statutes).

19 (c) The roster may contain other information the department
20 determines necessary and appropriate to ascertain the nature and
21 extent of the practice of lay midwifery within this state. The
22 information may only be used by the department to achieve the
23 intent of this Act and may not otherwise be made public so as to
24 disclose the identity of any person to whom such information
25 relates. Such information shall not be available to public
26 inspection under Chapter 424, Acts of the 63rd Legislature, Regular
27 Session, 1973, as amended (Article 6252-17a, Vernon's Texas Civil

Statutes).

SECTION 16. DUTIES OF LAY MIDWIVES. (a) Lay midwives shall disclose in oral and written form to a prospective client the limitations of the skills and practices of lay midwives.

(b) The department, with the advice of the lay midwifery board, shall prescribe the form of the written disclosure required by this section, which shall include the information that a lay midwife:

(1) may assist only in normal childbirth;

(2) has or does not have an arrangement with a local physician for referring patients who have complications that occur before or during childbirth;

(3) may not administer a prescription drug, perform a Caesarean section, or perform an episiotomy; and

(4) has or has not passed a lay midwife training course that complies with the board's requirements.

(c) The written disclosure required by this section may not exceed 500 words and shall be in English and Spanish.

SECTION 17. PROHIBITIONS. Lay midwives may not:

(1) administer a prescription drug to a client;

(2) use instruments such as forceps or surgical instruments for any procedure other than cutting the umbilical cord or providing emergency first aid during delivery;

(3) remove an adherent placenta;

(4) advance or retard labor or delivery by using medicines or mechanical devices; or

(5) use in connection with his or her name a title,

1 abbreviation, or any designation tending to imply that he or she
2 is a "registered" lay midwife as opposed to one who has identified
3 himself or herself in compliance with this Act.

4
5 SECTION 18. PENALTIES. (a) A lay midwife commits an offense
6 if the lay midwife knowingly and intentionally commits any of the
7 acts described in Section 17 of this Act.

8 (b) An offense under Subsection (a) of this section is a
9 Class C misdemeanor.

10 (c) A lay midwife who knowingly and intentionally fails to
11 comply with the disclosure requirement of Section 16 of this
12 Act commits a Class C misdemeanor.

13 (d) A lay midwife who knowingly and intentionally fails to
14 comply with the identification requirement in Section 13 of this
15 Act commits a Class C misdemeanor.

16 SECTION 19. FUNDS. All fees received by the department under
17 this Act shall be deposited in the state treasury to the credit of
18 the General Revenue Fund and shall be reappropriated to the Texas
19 Department of Health for the purpose of defraying the costs of
20 this Act.

21 SECTION 20. REPEALER. Section 16, Chapter 41, Acts of the
22 40th Legislature, 1st Called Session, 1927, as amended (Rule 49a,
23 Article 4477, Vernon's Civil Statutes), is repealed.

24 SECTION 21. INITIAL APPOINTMENTS. In making the initial
25 appointments to the lay midwifery board, the Texas Board of Health
26 shall designate one lay midwife and one public interest
27 representative for terms expiring January 1, 1981, the certified

1 nurse midwife and one public interest representative for terms
2 expiring January 1, 1983, and one lay midwife and the obstetrician
3 for terms expiring January 1, 1985.

4 SECTION 22. EFFECTIVE DATE. This Act takes effect September
5 1, 1979, except that Sections 16(a), 17, and 18 take effect on
6 September 1, 1980.

7 SECTION 23. EMERGENCY. The importance of this legislation
8 and the crowded condition of the calendars in both houses creates
9 an emergency and an imperative public necessity that the
10 constitutional rule requiring bills to be read on three several
11 days in each house be suspended, and this rule is hereby suspended.

ENGROSSED
SECOND READING

By Uribe, et al.

H.B. No. 635

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of lay midwives; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. DEFINITIONS. In this Act:

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(2) "Lay midwifery" means assisting childbirth for compensation.

(3) "Department" means the Texas Department of Health.

(4) "Board" means the Texas Board of Health.

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(6) "Natural childbirth trainer" means a person who counsels expectant mothers in the techniques of giving birth without artificial or mechanical assistance, but this definition does not include the act of assisting at childbirth.

(7) "Normal childbirth" means the delivery, at or close to term, of a pregnant woman whose physical examination reveals no abnormality or expected complications and who does not exhibit signs or symptoms of hemorrhage, toxemia, infection, abnormal fetus position, or abnormal presentation.

SECTION 2. EXCEPTIONS. This Act does not apply to a

1 certified nurse midwife, a natural childbirth trainer, a physician,
2 a health care professional licensed by the state operating within
3 the scope of his or her license, or a person other than a lay
4 midwife who assists childbirth in an emergency.

5 SECTION 3. LAY MIDWIFERY BOARD. (a) The board shall
6 appoint a lay midwifery board composed of:

7 (1) two lay midwives with at least three years of experience
8 in the practice of lay midwifery;

9 (2) one certified nurse midwife;

10 (3) a person licensed to practice medicine who is certified
11 by the American College of Obstetricians and Gynecologists; and

12 (4) two persons who are not practicing or trained in a
13 health care profession and who represent the public interest.

14 (b) The lay midwifery board shall meet at least once during
15 the first year of its existence and at other times at the call of
16 its chairman or the board.

17 SECTION 4. TERMS. The members of the lay midwifery board
18 hold office for staggered terms of six years, with the terms of two
19 members expiring on January 31 of each odd-numbered year.

20 SECTION 5. OFFICERS; MEETINGS; QUORUM. (a) The lay
21 midwifery board shall elect a chairman from one of the public
22 interest members and a vice-chairman from any of the other members.

23 (b) Four members constitute a quorum.

24 SECTION 6. EXPENSES. Members may not receive compensation
25 for service on the lay midwifery board. Each member is entitled to
26 reimbursement for actual and necessary expenses incurred in
27 performing the duties of the lay midwifery board.

1 SECTION 7. EXECUTIVE SECRETARY; STAFF. (a) The department
2 shall hire an executive secretary, after consultation with the lay
3 midwifery board, to perform administrative duties, including
4 keeping the minutes of lay midwifery board meetings, maintaining
5 records about approved midwifery training courses, and maintaining
6 records of persons who have received a letter of completion as
7 described in this Act.

8 (b) The department shall pay the salaries of the executive
9 secretary and any additional staff it determines necessary. The
10 department shall provide office space and supplies for the
11 executive secretary and other staff.

12 SECTION 8. DUTIES OF THE LAY MIDWIFERY BOARD. (a) The lay
13 midwifery board shall:

14 (1) establish qualifications for the lay midwifery training
15 course instructors;

16 (2) issue a lay midwifery training manual; and

17 (3) issue a final examination for a lay midwifery training
18 course.

19 (b) The instructor qualifications, training manual, and
20 final examination adopted by the lay midwifery board are subject to
21 the approval of the board.

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24 \$25 and a completed application on a form prescribed by the lay
25 midwifery board.

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2 to any person who requests it. An approved course manual shall
3 include information about:

- 4 (1) normal childbirth;
- 5 (2) symptoms of complications that occur in childbirth;
- 6 (3) anatomy of the human reproduction system;
- 7 (4) sterile techniques and procedures;
- 8 (5) delivery techniques to prevent vaginal lacerations;
- 9 (6) emergency treatment of vaginal lacerations occurring
10 during childbirth;
- 11 (7) legal requirements and procedures for reporting births
12 and deaths;
- 13 (8) silver nitrate treatment of newborn infants' eyes and
14 tests for syphilis and mental retardation as required by law; and
15 (9) other information or procedures as determined by the
16 department.

17 (b) The department may charge a fee of \$50 for a training
18 course it conducts. The department may charge a fee of not more
19 than \$10 for each training course manual it distributes.

20 (c) The training course shall be taught in Spanish if that
21 is the only language a participant of the course understands. If
22 other course participants do not understand Spanish, the training
23 course shall be taught in English and Spanish.

24 (d) A regional office of the department shall make the
25 training course available on a temporary basis when the department
26 determines that the number of course offerings in a region is
27 insufficient to satisfy the demand for training by lay midwives in

1 a region. The training course may be offered by a local health
2 department or an accredited postsecondary educational institution
3 or an adult education program. The training course offered by a
4 local health department, educational institution, or adult
5 education program shall comply with the lay midwifery board's
6 requirements. Entities offering the training course shall submit
7 to the department the names of persons taking the course, the
8 course curriculum, and evidence that the instructor's
9 qualifications comply with the department's requirements.

10 SECTION 11. EXAMINATION. (a) The final examination shall
11 be administered by the department at its regional or local offices.

12 (b) The examination shall be administered in English and
13 Spanish and may be offered in written or oral form.

14 SECTION 12. LETTER. The department shall grant a letter of
15 completion to a person who takes a lay midwifery training course
16 and passes the final examination.

17 SECTION 13. IDENTIFICATION OF LAY MIDWIVES REQUIRED. In
18 December of each year, a person who practices lay midwifery shall
19 identify himself or herself on a form provided by the department
20 with the county clerk of the county where he or she resides and
21 with the county clerk of each county where he or she practices lay
22 midwifery.

23 SECTION 14. IDENTIFICATION PROCEDURES. (a) In order to
24 identify himself or herself as required by Section 13 of this Act,
25 a person shall appear in person before the county clerk of the
26 county in which he or she resides and before the county clerk of
27 each county in which he or she practices lay midwifery.

1 (b) As part of the identification required by Section 13 of
2 this Act, the person identifying himself or herself as a lay
3 midwife shall complete a form prescribed by the department that
4 contains the following information:

5 (1) name;

6 (2) residence;

7 (3) post office address;

8 (4) date of birth;

9 (5) place of birth; and

10 (6) location of practice according to counties.

11 (c) The form may require other information the department
12 determines necessary for the study of the practice of lay midwifery
13 in the state.

14 (d) A person identifying himself or herself as a lay midwife
15 shall present to the county clerk verification of his or her
16 identity. The method of verification shall be recorded by the
17 county clerk on a form prescribed by the department.

18 (e) The county clerk shall provide each lay midwife who
19 identifies himself or herself a notice of a lay midwife's legal
20 responsibilities under the laws and regulations of this state on a
21 form prescribed by the department. Failure to receive the notice
22 does not constitute a defense to prosecution for acts committed in
23 violation of the laws and regulations of this state.

24 (f) On completion of the required identification form and
25 verification of identity form, the county clerk shall retain for
26 the county clerk's records a copy of each identification form or
27 the portion of the form as designated by the department, and a copy

1 of the identity verification form. The county clerk shall send the
2 original identification form and original verification form to the
3 department. The county clerk may charge a reasonable fee for these
4 services under Subdivision 10, Article 3930, Revised Civil Statutes
5 of Texas, 1925, as amended.

6 SECTION 15. ROSTER. (a) The department shall maintain a
7 roster of all persons identified to practice lay midwifery.

8 (b) The roster shall contain the information specifically
9 enumerated in Section 14(b) of this Act and other information the
10 department determines necessary to identify with accuracy each lay
11 midwife who is identified and the county or counties in which he or
12 she resides or practices. This information shall be a public
13 record as defined in Chapter 424, Acts of the 63rd Legislature,
14 Regular Session, 1973, as amended (Article 6252-17a, Vernon's Texas
15 Civil Statutes).

16 (c) The roster may contain other information the department
17 determines necessary and appropriate to ascertain the nature and
18 extent of the practice of lay midwifery within this state. The
19 information may only be used by the department to achieve the
20 intent of this Act and may not otherwise be made public so as to
21 disclose the identity of any person to whom such information
22 relates. Such information shall not be available to public
23 inspection under Chapter 424, Acts of the 63rd Legislature, Regular
24 Session, 1973, as amended (Article 6252-17a, Vernon's Texas Civil
25 Statutes).

26 SECTION 16. DUTIES OF LAY MIDWIVES. (a) Lay midwives shall
27 disclose in oral and written form to a prospective client the

1 limitations of the skills and practices of lay midwives.

2 (b) The department, with the advice of the lay midwifery
3 board, shall prescribe the form of the written disclosure required
4 by this section, which shall include the information that a lay
5 midwife:

6 (1) may assist only in normal childbirth;

7 (2) has or does not have an arrangement with a local
8 physician for referring patients who have complications that occur
9 before or during childbirth;

10 (3) may not administer a prescription drug, perform a
11 Caesarean section, or perform an episiotomy; and

12 (4) has or has not passed a lay midwife training course that
13 complies with the board's requirements.

14 (c) The written disclosure required by this section may not
15 exceed 500 words and shall be in English and Spanish.

16 SECTION 17. PROHIBITIONS. Lay midwives may not:

17 (1) administer a prescription drug to a client;

18 (2) use instruments such as forceps or surgical instruments
19 for any procedure other than cutting the umbilical cord or
20 providing emergency first aid during delivery;

21 (3) remove an adherent placenta;

22 (4) advance or retard labor or delivery by using medicines
23 or mechanical devices; or

24 (5) use in connection with his or her name a title,
25 abbreviation, or any designation tending to imply that he or she is
26 a "registered" lay midwife as opposed to one who has identified
27 himself or herself in compliance with this Act.

1 SECTION 18. PENALTIES. (a) A lay midwife commits an
2 offense if the lay midwife knowingly and intentionally commits any
3 of the acts described in Section 17 of this Act.

4 (b) An offense under Subsection (a) of this section is a
5 Class C misdemeanor.

6 (c) A lay midwife who knowingly and intentionally fails to
7 comply with the disclosure requirement of Section 16 of this Act
8 commits a Class C misdemeanor.

9 (d) A lay midwife who knowingly and intentionally fails to
10 comply with the identification requirement in Section 13 of this
11 Act commits a Class C misdemeanor.

12 SECTION 19. FUNDS. All fees received by the department
13 under this Act shall be deposited in the state treasury to the
14 credit of the General Revenue Fund and shall be reappropriated to
15 the Texas Department of Health for the purpose of defraying the
16 costs of this Act.

17 SECTION 20. REPEALER. Section 16, Chapter 41, Acts of the
18 40th Legislature, 1st Called Session, 1927, as amended (Rule 49a,
19 Article 4477, Vernon's Texas Civil Statutes), is repealed.

20 SECTION 21. INITIAL APPOINTMENTS. In making the initial
21 appointments to the lay midwifery board, the Texas Board of Health
22 shall designate one lay midwife and one public interest
23 representative for terms expiring January 1, 1981, the certified
24 nurse midwife and one public interest representative for terms
25 expiring January 1, 1983, and one lay midwife and the obstetrician
26 for terms expiring January 1, 1985.

27 SECTION 22. EFFECTIVE DATE. This Act takes effect September

H.B. No. 635

1 1, 1979, except that Sections 16(a), 17, and 18 take effect on
2 September 1, 1980.

3 SECTION 23. EMERGENCY. The importance of this legislation
4 and the crowded condition of the calendars in both houses creates
5 an emergency and an imperative public necessity that the
6 constitutional rule requiring bills to be read on three several
7 days in each house be suspended, and this rule is hereby suspended.

HOUSE ENGROSSMENT

2nd. Printing

By Uribe, et al.

H.B. No. 635

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of lay midwives; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. DEFINITIONS. In this Act:

(1) "Lay midwife" means a person who practices lay midwifery.

(2) "Lay midwifery" means assisting childbirth for compensation.

(3) "Department" means the Texas Department of Health.

(4) "Board" means the Texas Board of Health.

(5) "Certified nurse midwife" means a person who is a registered nurse in accordance with the laws of this state and who has received certification from the American College of Nurse Midwives.

(6) "Natural childbirth trainer" means a person who counsels expectant mothers in the techniques of giving birth without artificial or mechanical assistance, but this definition does not include the act of assisting at childbirth.

(7) "Normal childbirth" means the delivery, at or close to term, of a pregnant woman whose physical examination reveals no abnormality or expected complications and who does not exhibit signs or symptoms of hemorrhage, toxemia, infection, abnormal fetus position, or abnormal presentation.

SECTION 2. EXCEPTIONS. This Act does not apply to a

1 certified nurse midwife, a natural childbirth trainer, a physician,
2 a health care professional licensed by the state operating within
3 the scope of his or her license, or a person other than a lay
4 midwife who assists childbirth in an emergency.

5 SECTION 3. LAY MIDWIFERY BOARD. (a) The board shall
6 appoint a lay midwifery board composed of:

7 (1) two lay midwives with at least three years of experience
8 in the practice of lay midwifery;

9 (2) one certified nurse midwife;

10 (3) a person licensed to practice medicine who is certified
11 by the American College of Obstetricians and Gynecologists; and

12 (4) two persons who are not practicing or trained in a
13 health care profession and who represent the public interest.

14 (b) The lay midwifery board shall meet at least once during
15 the first year of its existence and at other times at the call of
16 its chairman or the board.

17 SECTION 4. TERMS. The members of the lay midwifery board
18 hold office for staggered terms of six years, with the terms of two
19 members expiring on January 31 of each odd-numbered year.

20 SECTION 5. OFFICERS; MEETINGS; QUORUM. (a) The lay
21 midwifery board shall elect a chairman from one of the public
22 interest members and a vice-chairman from any of the other members.

23 (b) Four members constitute a quorum.

24 SECTION 6. EXPENSES. Members may not receive compensation
25 for service on the lay midwifery board. Each member is entitled to
26 reimbursement for actual and necessary expenses incurred in
27 performing the duties of the lay midwifery board.

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2 shall hire an executive secretary, after consultation with the lay
3 midwifery board, to perform administrative duties, including
4 keeping the minutes of lay midwifery board meetings, maintaining
5 records about approved midwifery training courses, and maintaining
6 records of persons who have received a letter of completion as
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10 department shall provide office space and supplies for the
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12 and deaths;

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14 tests for syphilis and mental retardation as required by law; and

- 15 (9) other information or procedures as determined by the
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17 (b) The department may charge a fee of \$50 for a training
18 course it conducts. The department may charge a fee of not more
19 than \$10 for each training course manual it distributes.

20 (c) The training course shall be taught in Spanish if that
21 is the only language a participant of the course understands. If
22 other course participants do not understand Spanish, the training
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27 each county in which he or she practices lay midwifery. ²/₃

1 (b) As part of the identification required by Section 13 of
2 this Act, the person identifying himself or herself as a lay
3 midwife shall complete a form prescribed by the department that
4 contains the following information:

5 (1) name;

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7 (3) post office address;

8 (4) date of birth;

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23 violation of the laws and regulations of this state.

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22 (4) advance or retard labor or delivery by using medicines
23 or mechanical devices; or

24 (5) use in connection with his or her name a title,
25 abbreviation, or any designation tending to imply that he or she is
26 a "registered" lay midwife as opposed to one who has identified
27 himself or herself in compliance with this Act.

1 SECTION 18. PENALTIES. (a) A lay midwife commits an
2 offense if the lay midwife knowingly and intentionally commits any
3 of the acts described in Section 17 of this Act.

4 (b) An offense under Subsection (a) of this section is a
5 Class C misdemeanor.

6 (c) A lay midwife who knowingly and intentionally fails to
7 comply with the disclosure requirement of Section 16 of this Act
8 commits a Class C misdemeanor.

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10 comply with the identification requirement in Section 13 of this
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24 nurse midwife and one public interest representative for terms
25 expiring January 1, 1983, and one lay midwife and the obstetrician
26 for terms expiring January 1, 1985.

27 SECTION 22. EFFECTIVE DATE. This Act takes effect September

H.B. No. 635

1 1, 1979, except that Sections 16(a), 17, and 18 take effect on
2 September 1, 1980.

3 SECTION 23. EMERGENCY. The importance of this legislation
4 and the crowded condition of the calendars in both houses creates
5 an emergency and an imperative public necessity that the
6 constitutional rule requiring bills to be read on three several
7 days in each house be suspended, and this rule is hereby suspended.

COMMITTEE REPORT FORM

5-16-79

Austin, Texas

Date of report to Senate

Honorable William P. Hobby
President of the Senate

Sir:

We, your Committee on Human Resources to which was referred
H B. No. 635 have had the same under consideration, and I am instructed to report it back to the Senate
with the recommendation that it do pass and be printed.


Chairman

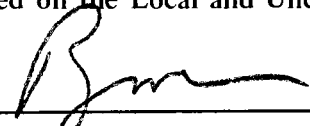
REQUEST FOR LOCAL & UNCONTESTED CALENDAR
PLACEMENT

Hon. Gene Jones, Chairman
Administration Committee

5-16-79

Sir:

Pursuant to S. R. 16, notice is hereby given that HB 635, by: BROOKS,
was heard by the Committee on HUMAN RESOURCES on 5/14, 1979,
and reported out with the recommendation that it be placed on the Local and Uncontested
Calendar.


Chairman of the reporting committee

IMPORTANT: THIS FORM MUST BE ATTACHED TO A PRINTED COPY OF THE BILL
OR RESOLUTION, WHICH ALONG WITH 7 ADDITIONAL COPIES OF THE BILL OR
RESOLUTION SHOULD BE DELIVERED TO THE OFFICE OF THE COMMITTEE ON
ADMINISTRATION, ROOM G-27J. PLEASE CALL 5-1134 IF YOU HAVE ANY
QUESTIONS. **DEADLINE FOR SUBMITTING BILLS FOR THE LOCAL CALENDAR IS**
6:00 P.M. MONDAYS.

ATTACH THIS COPY TO BILL


ENROLLED

H.B. No. 635

1 AN ACT

2 relating to the regulation of lay midwives; providing penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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7 (2) "Lay midwifery" means assisting childbirth for
8 compensation.

9 (3) "Department" means the Texas Department of Health.

10 (4) "Board" means the Texas Board of Health.

11 (5) "Certified nurse midwife" means a person who is a
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14 Midwives.

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16 department.

17 (b) The department may charge a fee of \$50 for a training
18 course it conducts. The department may charge a fee of not more
19 than \$10 for each training course manual it distributes.

20 (c) The training course shall be taught in Spanish if that
21 is the only language a participant of the course understands. If
22 other course participants do not understand Spanish, the training
23 course shall be taught in English and Spanish.

24 (d) A regional office of the department shall make the
25 training course available on a temporary basis when the department
26 determines that the number of course offerings in a region is
27 insufficient to satisfy the demand for training by lay midwives in

1 a region. The training course may be offered by a local health
2 department or an accredited postsecondary educational institution
3 or an adult education program. The training course offered by a
4 local health department, educational institution, or adult
5 education program shall comply with the lay midwifery board's
6 requirements. Entities offering the training course shall submit
7 to the department the names of persons taking the course, the
8 course curriculum, and evidence that the instructor's
9 qualifications comply with the department's requirements.

10 SECTION 11. EXAMINATION. (a) The final examination shall
11 be administered by the department at its regional or local offices.

12 (b) The examination shall be administered in English and
13 Spanish and may be offered in written or oral form.

14 SECTION 12. LETTER. The department shall grant a letter of
15 completion to a person who takes a lay midwifery training course
16 and passes the final examination.

17 SECTION 13. IDENTIFICATION OF LAY MIDWIVES REQUIRED. In
18 December of each year, a person who practices lay midwifery shall
19 identify himself or herself on a form provided by the department
20 with the county clerk of the county where he or she resides and
21 with the county clerk of each county where he or she practices lay
22 midwifery.

23 SECTION 14. IDENTIFICATION PROCEDURES. (a) In order to
24 identify himself or herself as required by Section 13 of this Act,
25 a person shall appear in person before the county clerk of the
26 county in which he or she resides and before the county clerk of
27 each county in which he or she practices lay midwifery.

1 (b) As part of the identification required by Section 13 of
2 this Act, the person identifying himself or herself as a lay
3 midwife shall complete a form prescribed by the department that
4 contains the following information:

5 (1) name;

6 (2) residence;

7 (3) post office address;

8 (4) date of birth;

9 (5) place of birth; and

10 (6) location of practice according to counties.

11 (c) The form may require other information the department
12 determines necessary for the study of the practice of lay midwifery
13 in the state.

14 (d) A person identifying himself or herself as a lay midwife
15 shall present to the county clerk verification of his or her
16 identity. The method of verification shall be recorded by the
17 county clerk on a form prescribed by the department.

18 (e) The county clerk shall provide each lay midwife who
19 identifies himself or herself a notice of a lay midwife's legal
20 responsibilities under the laws and regulations of this state on a
21 form prescribed by the department. Failure to receive the notice
22 does not constitute a defense to prosecution for acts committed in
23 violation of the laws and regulations of this state.

24 (f) On completion of the required identification form and
25 verification of identity form, the county clerk shall retain for
26 the county clerk's records a copy of each identification form or
27 the portion of the form as designated by the department, and a copy

1 of the identity verification form. The county clerk shall send the
2 original identification form and original verification form to the
3 department. The county clerk may charge a reasonable fee for these
4 services under Subdivision 10, Article 3930, Revised Civil Statutes
5 of Texas, 1925, as amended.

6 SECTION 15. ROSTER. (a) The department shall maintain a
7 roster of all persons identified to practice lay midwifery.

8 (b) The roster shall contain the information specifically
9 enumerated in Section 14(b) of this Act and other information the
10 department determines necessary to identify with accuracy each lay
11 midwife who is identified and the county or counties in which he or
12 she resides or practices. This information shall be a public
13 record as defined in Chapter 424, Acts of the 63rd Legislature,
14 Regular Session, 1973, as amended (Article 6252-17a, Vernon's Texas
15 Civil Statutes).

16 (c) The roster may contain other information the department
17 determines necessary and appropriate to ascertain the nature and
18 extent of the practice of lay midwifery within this state. The
19 information may only be used by the department to achieve the
20 intent of this Act and may not otherwise be made public so as to
21 disclose the identity of any person to whom such information
22 relates. Such information shall not be available to public
23 inspection under Chapter 424, Acts of the 63rd Legislature, Regular
24 Session, 1973, as amended (Article 6252-17a, Vernon's Texas Civil
25 Statutes).

26 SECTION 16. DUTIES OF LAY MIDWIVES. (a) Lay midwives shall
27 disclose in oral and written form to a prospective client the

1 limitations of the skills and practices of lay midwives.

2 (b) The department, with the advice of the lay midwifery
3 board, shall prescribe the form of the written disclosure required
4 by this section, which shall include the information that a lay
5 midwife:

6 (1) may assist only in normal childbirth;

7 (2) has or does not have an arrangement with a local
8 physician for referring patients who have complications that occur
9 before or during childbirth;

10 (3) may not administer a prescription drug, perform a
11 Caesarean section, or perform an episiotomy; and

12 (4) has or has not passed a lay midwife training course that
13 complies with the board's requirements.

14 (c) The written disclosure required by this section may not
15 exceed 500 words and shall be in English and Spanish.

16 SECTION 17. PROHIBITIONS. Lay midwives may not:

17 (1) administer a prescription drug to a client;

18 (2) use instruments such as forceps or surgical instruments
19 for any procedure other than cutting the umbilical cord or
20 providing emergency first aid during delivery;

21 (3) remove an adherent placenta;

22 (4) advance or retard labor or delivery by using medicines
23 or mechanical devices; or

24 (5) use in connection with his or her name a title,
25 abbreviation, or any designation tending to imply that he or she is
26 a "registered" lay midwife as opposed to one who has identified
27 himself or herself in compliance with this Act.

1 SECTION 18. PENALTIES. (a) A lay midwife commits an
2 offense if the lay midwife knowingly and intentionally commits any
3 of the acts described in Section 17 of this Act.

4 (b) An offense under Subsection (a) of this section is a
5 Class C misdemeanor.

6 (c) A lay midwife who knowingly and intentionally fails to
7 comply with the disclosure requirement of Section 16 of this Act
8 commits a Class C misdemeanor.

9 (d) A lay midwife who knowingly and intentionally fails to
10 comply with the identification requirement in Section 13 of this
11 Act commits a Class C misdemeanor.

12 SECTION 19. FUNDS. All fees received by the department
13 under this Act shall be deposited in the state treasury to the
14 credit of the General Revenue Fund and shall be reappropriated to
15 the Texas Department of Health for the purpose of defraying the
16 costs of this Act.

17 SECTION 20. REPEALER. Section 16, Chapter 41, Acts of the
18 40th Legislature, 1st Called Session, 1927, as amended (Rule 49a,
19 Article 4477, Vernon's Texas Civil Statutes), is repealed.

20 SECTION 21. INITIAL APPOINTMENTS. In making the initial
21 appointments to the lay midwifery board, the Texas Board of Health
22 shall designate one lay midwife and one public interest
23 representative for terms expiring January 1, 1981, the certified
24 nurse midwife and one public interest representative for terms
25 expiring January 1, 1983, and one lay midwife and the obstetrician
26 for terms expiring January 1, 1985.

27 SECTION 22. EFFECTIVE DATE. This Act takes effect September

H.B. No. 635

1 1, 1979, except that Sections 16(a), 17, and 18 take effect on
2 September 1, 1980.

3 SECTION 23. EMERGENCY. The importance of this legislation
4 and the crowded condition of the calendars in both houses creates
5 an emergency and an imperative public necessity that the
6 constitutional rule requiring bills to be read on three several
7 days in each house be suspended, and this rule is hereby suspended.

H.B. No. 635

President of the Senate

Speaker of the House

I certify that H.B. No. 635 was passed by the House on May 7, 1979, by the following vote: Yeas 110, Nays 23, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 635 was passed by the Senate on May 24, 1979, by a viva-voce vote.

Secretary of the Senate

APPROVED: _____

Date

Governor

H. B. No.

635

By

Unibe

A BILL TO BE ENTITLED
AN ACT

relating to the regulation of lay midwifery and providing penalties.

JAN 24 1979

1. Filed with the Chief Clerk.

JAN 25 1979

2. Read first time and referred to Committee on

Health Services

APR 11 1979

3. Reported favorably (~~as amended~~) and sent to Printer at 2:30 P M. APR 17 1979
(time) unfavorably (as substituted)

APR 17 1979

4. Printed and distributed at 8:56 P M.
(time)

APR 18 1979

5. Sent to Committee on Calendars at 8:07 A M.
(time)

MAY 4 1979

6. Read second time (~~amended~~) Subs.; passed to third reading (~~failed~~) by (Non-Record Vote)
(Record Vote of _____ yeas, _____ nays, _____ present, not voting).

7. Motion to reconsider and table the vote by which H. B. _____ was ordered engrossed prevailed (failed) by a (Non-Record Vote) (Record Vote of _____ yeas, _____ nays, and _____ present, not voting).

8. Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of _____ yeas, _____ nays, and _____ present, not voting.

MAY 7 1979

9. Read third time (~~amended~~); finally passed (~~failed~~) by (Non-Record Vote) (Record Vote of 110 yeas, 23 nays, 2 present, not voting).

10. Caption ordered amended to conform to body of bill.

11. Motion to reconsider and table the vote by which H. B. _____ was finally prevailed (failed) by a (Non-Record) (Record Vote of _____ yeas, _____ nays, and _____ present, not voting).

MAY 7 1979

12. Ordered Engrossed at 6:45 P M.
(time)

13. Engrossed.

14. Returned to Chief Clerk at _____ M.
(time)

15. Sent to Senate.

Betty Murray
Chief Clerk of the House

16. Received from the House

17. Read, referred to Committee on

18. Reported favorably

19. Reported adversely, with favorable Committee Substitute; Committee Substitute first time.

20. Ordered not printed.

21. Regular order of business suspended by
(a viva voce vote.)
(_____ yeas, _____ nay

H. B. No.

635

By

Unibe

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of lay midwifery and providing penalties.

JAN 24 1979

1. Filed with the Chief Clerk.

JAN 25 1979

2. Read first time and referred to Committee on

Health Services

APR 11 1979

3. Reported favorably (as amended) and sent to Printer at

APR 17 1979

2:30 P. M. (time)

unfavorably (as substituted)

MAY 17 1979

4. Printed and distributed at 8:56 P. M. (time)

APR 18 1979

5. Sent to Committee on Calendars at 8:07 A. M. (time)

MAY 4 1979

6. Read second time (amended); passed to third reading (failed) by (Non-Record Vote) (Record Vote of years, nays, present, not voting).

Subs.

7. Motion to reconsider and table the vote by which H. B. was ordered engrossed prevailed (failed) by a (Non-Record Vote) (Record Vote of years, nays, and present, not voting).

8. Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of years, nays, and present, not voting.

MAY 7 1979

9. Read third time (amended); finally passed (failed) by (Non-Record Vote) (Record Vote of 110 years, 23 nays, 2 present, not voting).

10. Caption ordered amended to conform to body of bill.

11. Motion to reconsider and table the vote by which H. B. was finally passed prevailed (failed) by a (Non-Record) (Record Vote of years, nays, and present, not voting).

MAY 7 1979

12. Ordered Engrossed at 6:45 P. M. (time)

MAY 8 1979

13. Engrossed.

MAY 8 1979

14. Returned to Chief Clerk at 8:25 A. M. (time)

MAY - 8 1979

15. Sent to Senate.

Betty Murray
Chief Clerk of the House

MAY 8 1979

16. Received from the House

MAY 8 1979

17. Read, referred to Committee on HUMAN RESOURCES

MAY 16 1979

18. Reported favorably

19. Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

20. Ordered not printed.

MAY 24 1979

21. Regular order of business suspended by unanimous consent (a viva voce vote.) (years, nays.)

22. To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of _____ yeas, _____ nays.

MAY 24 1979

23. Read second time _____ passed to third reading by:

(a viva voce vote.)

(_____ yeas, _____ nays.)

24. Caption ordered amended to conform to body of bill.

MAY 24 1979

25. Senate and Constitutional 3-Day Rules suspended by vote of 29 yeas, 0 nays to place bill on third reading and final passage.

MAY 24 1979

26. Read third time and passed by

(a viva voce vote.)

(_____ yeas, _____ nays.)

OTHER ACTION:

OTHER ACTION:

Betty King
Secretary of the Senate

May 24, 1979

27. Returned to the House.

MAY 24 1979

28. Received from the Senate (~~with amendments~~).

29. House (Concurred) (Refused to Concur) in Senate Amendments by a (Non-Record Vote) (Record Vote of _____ yeas, _____ nays, _____ present, not voting).

30. Conference Committee Ordered.

31. Conference Committee Report Adopted (Rejected) by a (Non-Record Vote) (Record Vote of _____ yeas, _____ nays, and _____ present, not voting).

MAY 24 1979

32. Ordered Enrolled at 5:55 P.M.
(time)

MAY -8 AM 8:25

1979 APR 17 PM 8:56

RECEIVED - SENATE

5/24/79

PROCLAMATION

BY THE

Governor of the State of Texas

41-1738

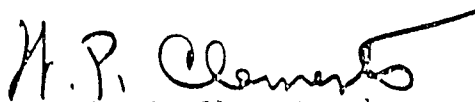
TO ALL TO WHOM THESE PRESENTS SHALL COME:

June 13, 1979

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 635 because of the following objections:

This bill would require the Board of Health to appoint a midwifery board which would establish voluntary training course and examination in order to supposedly improve the quality of midwife services. All this would do would allow some midwives to pass themselves off as professionals and this state recognition of midwifery would give credibility to a group that may or may not have credibility. The public would have no way of knowing whether midwives were state sanctioned or not because the whole procedure is "voluntary". No midwife, practicing in public, would be required to take any course or exam. Although the purposes of the bill are noble it is questionable if the public would be protected one bit, and I therefore veto House Bill 635.

Respectfully,


William P. Clements, Jr.
Governor